

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of:)	
)	
PREMERA BLUE CROSS CONVERSION)	
)	
R 03-07)	Order No 26 – Regarding
)	PBC Motion for Disclosure of
)	Staff Recommendation at Hearing
)	

Premera Blue Cross (PBC) has requested that Alaska Division of Insurance (division) staff make a recommendation or take a position on PBC's proposed conversion by way of live testimony at hearing and give PBC an opportunity to conduct cross examination. The division staff responds that it should be permitted to give its recommendation to the director post hearing.

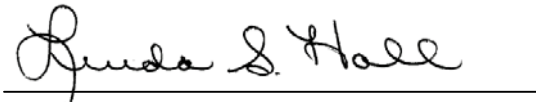
The purpose of this proceeding is to consider PBC's application (Form A filing) to convert from a not for profit hospital and medical service corporation to a for profit stock insurance company. Ordinarily, an adjudicative hearing held by the director (or a designated hearing officer) would involve a decision by the division about which an aggrieved party has requested a hearing. AS 21.06.180. In this case, we are holding a hearing before any such decision. While this hearing is being held under the authority in AS 21.06.210 and AS 21.22.030, neither statute provides direction on whether the division staff should be required to give its recommendation regarding PBC's application or Form A by way of live testimony. I also do not believe that due process in the context of this Form A hearing requires it.

I appreciate PBC's concern about having an opportunity to review and respond to the division staff's recommendation. I, too, am interested in hearing the staff's recommendation. But I conclude that it would not be appropriate for staff to give a recommendation until all the evidence has been presented. I also do not believe it is appropriate to force the staff to make a recommendation through live testimony. I would not expect the proposed recommendation to be considered evidence, but rather more like a proposed final decision in this matter. The staff's recommendation should be based on the record that has been established through this hearing and the applicable law. But, in the interest of fairness, I will require the staff to file a written recommendation and will give PBC an opportunity to rebut it. The staff will be allowed an opportunity to file a response. To the extent that the staff's recommendation reveals factual issues that have not been developed in the record, I will then revisit the question of allowing examination of division staff.

THEREFORE, IT IS HEREBY ORDERED:

1. On or before June 18, 2004, the division staff shall file with the director and serve on PBC and Amici its recommendation regarding PBC's Form A application and its conversion proposal.
2. On or before June 22, 2004, PBC and Amici may file a rebuttal to the staff's recommendation.
3. On or before June 25, 2004, the division staff may file a response to PBC's or Amici's rebuttal.
4. If the staff's recommendation raises factual issues not developed in the record, PBC may renew its motion or request to examine division staff.

Dated: June 10, 2004



Linda S. Hall
Director